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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER
Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496 Bar # 146643	Case Number(s): 12-O-16270	For Court use only <div style="text-align: center;"> FILED JUN 28 2013 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
Counsel For Respondent Arthur L. Margolis Margolis & Margolis LLP 2000 Riverside Drive Los Angeles, CA 90039 (323) 953-8996 Bar # 57703	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING		
In the Matter of: PAUL LORIN GIANNINI Bar # 53593 A Member of the State Bar of California (Respondent)	ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 14, 1972.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 17 pages, not including the order.

(Effective January 1, 2011)



- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two billing cycles immediately following the effective date of the Supreme Court's order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment to Stipulation at p. 14.

- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment to Stipulation at p. 14.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Attachment to Stipulation at p. 14.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of two years.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be placed on probation for a period of three years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) ☒ **Actual Suspension:**
- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 90 days.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|--|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☐ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of _____ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or _____ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. ☐ Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of four times per month or as recommended by respondent's treatment provider and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report, including evidence of the treatment provider's recommendation regarding the frequency of treatment. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for thirty-six (36) months or the period of probation or until a motion to modify this condition is granted and that ruling becomes final."

Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to respondent's medical records relevant to treatment of Respondent's emotional difficulties beginning in 2009 and any subsequent treatment of his emotional difficulties

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until expiration of the period of probation or until a motion to modify this condition is granted. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

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In the Matter of: Paul Lorin Giannini	Case Number(s): 12-O-16279
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Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Paul Lorin Giannini

CASE NUMBER(S): 12-O-16279

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 12-O-16279 (Complainant: Barbara Cooper)

FACTS:

1. In June 2007, Barbara Cooper ("Cooper") employed Respondent on a contingency fee basis to quiet title to property located in Los Angeles, California, which Cooper and her husband had deeded to James Pereda ("Pereda") with the agreement that Pereda would lease the property to the Coopers. On July 11, 2007, Respondent filed a quiet title action in the Los Angeles County Superior Court on behalf of the Coopers entitled, *Barbara Cooper v. Jimmy Pereda, et al.*, case number BC374023.

2. On April 25, 2008, Pereda filed a cross-complaint against Cooper seeking reimbursement of unpaid rent and possession of the property.

3. On December 15, 2008, Pereda stipulated to a judgment in favor of the Coopers in the amount of \$250,000 to resolve the quiet title action and retain ownership of the property. The parties further stipulated that the judgment would be fully satisfied upon payment of \$75,000 in installment payments, including \$25,000 by December 29, 2008 and monthly payments of \$1,388 until the balance of \$50,000 was paid in full, and that Pereda would release his claims raised in his cross-complaint.

4. Between December 2008 and May 2009, Respondent received several installment payments from Pereda toward the \$75,000 due to Cooper in the form of money orders, checks and credit card transactions totaling \$40,726.22. Pereda made no further payments to Respondent. None of the \$40,726.22 was deposited or maintained in a client trust account for Cooper. Some of the funds paid by Pereda, including funds paid via two credit card transactions, were deposited into Respondent's general account. One of the two credit card transactions in the amount of \$15,000 deposited on January 27, 2009 in Respondent's general account was challenged by Pereda, was reversed by the credit card merchant, and deducted from the general account on July 17, 2009, lowering the total received from Pereda to \$25,726.22.

5. On January 20, 2009, Respondent applied \$870.74 of the funds received from Pereda as reimbursement of costs that Respondent had incurred for Cooper. On February 24, 2009, Respondent issued a check for \$1,097.51 from the funds received from Pereda and deposited into Respondent's general account to Haight, Brown & Bonesteel ("HBB") as reimbursement of costs incurred for Cooper. The check was paid on February 26, 2009.

6. Under Respondent's contingency fee agreement with Cooper, Respondent was entitled to 47 percent of the "net recovery" which was defined as money or an interest in property, including the total amount received by settlement or judgment minus all costs and disbursements. Thus, from the \$25,726.22 received from Pereda, Respondent was entitled to 47 percent minus Respondent's costs and HBB's costs totaling \$1,968.25 (\$870.74 and \$1,097.41), or \$11,166.25 as fees and Cooper was entitled to \$12,591.72.

7. Respondent determined that the "net recovery" included \$28,500 that Cooper saved by not paying rent to Pereda for 19 months, and that he was entitled to 47 percent of \$28,500 (\$13,395) plus 47 percent of \$75,000 (\$35,250), for a total of \$48,645. Also, in his fee agreement with Cooper, Respondent had a lien against the funds recovered from Pereda, so Respondent determined that he was entitled to payment of his attorney fees and costs before any disbursement to Cooper was required. Respondent did not deposit any of the \$40,726.22 received from Pereda in a client trust account and did not promptly inform Cooper of his receipt of any of the funds from Pereda between December 2008 and January 2009.

8. However, Respondent did not inform Cooper when the parties reached the stipulation on December 15, 2008 that he would be claiming \$13,395 as fees because Pereda agreed to release his claim to unpaid rent. Further, Cooper ceased paying rent to Pereda in May 2007, before Respondent's representation began. Respondent's fee agreement with Cooper, dated June 22, 2007, did not cover or contemplate representation by Respondent in any cross-complaint filed against Cooper. Respondent did not enter into another written fee agreement with Cooper related to Pereda's cross-complaint.

9. On March 12, 2009, Respondent sent a letter to Cooper with an inaccurate accounting of the funds received. Respondent's accounting did not include all of the payments received, the correct amount of each payment, the correct total sum received from Pereda to date, or the date of his receipt of each payment. Subsequently, Respondent did not promptly inform Cooper of the funds received from Pereda in May 2009.

10. In Respondent's March 12, 2009 letter to Cooper, he informed Cooper for the first time that he was claiming 47 percent of the rental savings. Respondent also stated that he had decided to give Cooper a credit of \$6,697.50 or half of \$13,395. He further stated that his fees were to be paid first, that Cooper would begin receiving her share of the funds received from Pereda in April 2009, and that Cooper would receive a total of \$31,083. Respondent further told Cooper that she owed him \$16,610 and that he would share the monthly payments of \$1,388.89 from Pereda equally with Cooper until Respondent was paid in full.

11. In March 2009, Cooper responded by letter to Respondent's March 12, 2009 letter and informed Respondent that she objected to his claim to entitlement to fees related to the unpaid rent.

12. Between April and July 2009, Respondent paid a total of \$4,776.89 to Cooper from the funds received from Pereda. Respondent did not disburse the balance of \$7,814.83 due to Cooper because of his unreasonable but honestly held belief that he was entitled to maintain the remainder of the funds received from Pereda to cover his attorney fees.

13. On September 25, 2009, Pereda filed an unlawful detainer action against the Coopers, alleging that the Coopers failed to pay rent on the property, totaling \$14,250, and seeking possession of the property. On October 27, 2009, the property was sold at a foreclosure sale. On or about November 7, 2009, Respondent sent an accounting to Cooper of the services he rendered in the unlawful detainer

action. In the accounting, Respondent reported that he had earned fees totaling \$3,200. Cooper did not pay the \$3,200 to Respondent.

14. In May 2010, HSBC Bank, the title holder through the trustee's sale, filed an unlawful detainer action against Cooper and her daughter, Ellen Cooper. Respondent represented them in the unlawful detainer action and settled the action in August 2010.

15. In or about October 2010, Respondent sent a letter to Cooper, dated October 20, 2010, which memorialized the termination of his attorney-client relationship with Cooper.

16. On December 9, 2010, Cooper's daughter, Ellen Cooper ("Ellen"), sent a letter to Respondent on behalf of Cooper. In the letter, Ellen requested a full itemized accounting of the funds received from Pereda and payment of the funds due to Cooper. On December 13, 2010, Respondent sent a reply letter to Ellen. In the letter, Respondent denied that any money was due to Cooper. On December 31, 2010, Cooper sent a written request to Respondent for an itemized accounting of the funds Respondent received from Pereda. Respondent did not provide any accounting to Cooper in response to the December 2010 requests for an accounting.

17. In July 2012, Cooper submitted a complaint to the State Bar of California against Respondent regarding his representation. On March 27, 2013, Respondent sent a check to Cooper for \$9,361.19, as payment of the balance due to Cooper from the funds received from Pereda of \$7,820, plus five percent interest from May 15, 2009 to April 3, 2013.

CONCLUSIONS OF LAW:

18. By not depositing or maintaining any of the \$40,726.22 received from Pereda into a client trust account, Respondent failed to deposit and maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

19. By not informing Cooper of receipt of the funds from Pereda between December 2008 and January 2009 until on or about March 12, 2009 and of the funds from Pereda in May 2009, Respondent failed to notify a client promptly of the receipt of the client's funds, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(1).

20. By not providing Cooper with an accurate accounting of the funds received from Pereda as of March 12, 2009, and by not providing any accounting of the funds received from Pereda in response to the December 20, 2010 requests for an accounting, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

21. By not making payment of at least \$12,591.72 to Cooper from the funds received from Pereda until March 27, 2013, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(4).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Harm [Standard 1.2(b)(iv)]: Respondent's client was significantly harmed by being deprived of settlement funds belonging to her.

Multiple Acts of Misconduct [Standard 1.2(b)(ii)]: Respondent committed multiple acts of misconduct including failing to deposit and maintain settlement funds in a trust account; failing to promptly notify the client of his receipt of the funds; failing to properly account for the settlement funds; and failing to promptly disburse settlement funds belonging to his client.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Respondent was admitted to the State Bar on December 14, 1972 and has no prior record of discipline. While Respondent's misconduct here is serious, Respondent's lack of prior discipline in nearly 36 years of practice before the misconduct began is entitled to significant weight in mitigation. (*In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 127 [an attorney with 30 years of practice and no prior discipline was entitled to significant mitigation].)

Recognition of Wrongdoing: Respondent has stipulated to misconduct at an early stage of the proceedings, thereby demonstrating his recognition of wrongdoing and cooperation with the State Bar and saving the State Bar's resources. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

Extreme Emotional Difficulties: Respondent was suffering from extreme emotional difficulties at the time of his misconduct which led to a hospitalization in September 2009. Subsequently Respondent's emotional difficulties led to further treatment from January to July 2012. Respondent has provided a letter from the physician who provided treatment to Respondent from January to July 2012, who reviewed Respondent's medical history, and who concluded that Respondent's emotional difficulties led to his misconduct between December 2008 and June 2009. Respondent also provided a letter from his treating physician since August 2012 who believes that Respondent has shown significant improvement in his symptoms; and that Respondent's prognosis is favorable provided that he continues to participate in treatment.

Character References: Respondent has provided letters from five attorneys and a construction defect consultant. Four of the attorneys and the consultant have known Respondent for many years and one of the attorneys has known Respondent since 2010. All of the attorneys and the consultant are familiar with Respondent's work ethic, and attested to his good character, and his diligence and fairness while representing clients. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547 [favorable character testimony from attorneys are entitled to considerable weight].) Except for two of the attorneys, all of these character references were aware of the misconduct in this matter. (*In re Ford* (1988) 44 Cal.3d 810, 818 [witness opinions who are not aware of the full extent of respondent's misconduct entitled to limited weight].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a “process of fixing discipline” pursuant to a set of written principles to “better discharge the purposes of attorney discipline as announced by the Supreme Court.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing four acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.2(b) which provides that culpability of a member of a violation of rule 4-100, Rules of Professional Conduct, none of which does not result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Here, Respondent’s mishandling of entrusted funds and untimely notice to Cooper of his receipt of the funds stemmed from his unreasonable but honestly held belief that he was entitled to the funds received as fees. The delay in disbursing the funds due to Cooper caused her harm by depriving her of the funds for years. However, Respondent continued to represent Cooper in the unlawful detainer action for which he was not paid, and his misconduct occurred during the time that Respondent was suffering from extreme emotional difficulties for which he sought medical treatment. Respondent has shown significant improvement with treatment, and his prognosis continues to be favorable with further treatment. Further, Respondent has acknowledged his misconduct and his good character is supported by several people. For these reasons, the minimum three months of actual suspension provided in standard 2.2(b) is warranted. An actual suspension of 90 days will protect the public, courts and the legal profession; the maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession. (Standard 1.3.)

This disposition is consistent with Supreme Court case law involving trust account violations not involving dishonest conduct. (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317 [30-day actual suspension for trust account violations resulting from attorney’s unreasonable belief that her client authorized the attorney’s use of entrusted funds to pay the attorney’s fees].)

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7), was May 7, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 29, 2013, the prosecution costs in this matter are \$2,865. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

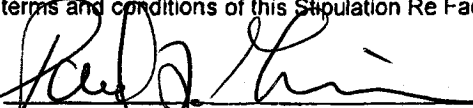
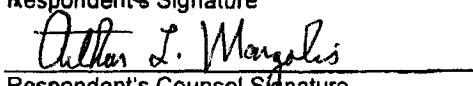

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Paul Lorin Giannini	Case number(s): 12-O-16279
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>May 31, 2013</u>	<u></u>	<u>Paul L. Giannini</u>
Date	Respondent's Signature	Print Name
<u>6/5/13</u>	<u></u>	<u>Arthur L. Margolis</u>
Date	Respondent's Counsel Signature	Print Name
<u>6/6/13</u>	<u></u>	<u>Diane J. Meyers</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: Paul Lorin Giannini	Case Number(s): 12-O-16279
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

6/28/13

Judge of the State Bar Court

RICHARD A. HONN

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 28, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

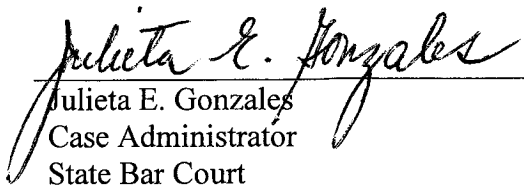
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS ESQ
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 28, 2013.



Julieta E. Gonzales
Case Administrator
State Bar Court